



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,862	09/30/2003	William T. Ball	P06455US1-153	6280
34082	7590	09/20/2005	EXAMINER	
ZARLEY LAW FIRM P.L.C. CAPITAL SQUARE 400 LOCUST, SUITE 200 DES MOINES, IA 50309-2350			FETSUGA, ROBERT M	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/674,862	BALL, WILLIAM T.
	Examiner Robert M. Fetsuga	Art Unit 3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 31 August 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 12,15 and 16 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 12,15 and 16 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

Art Unit: 3751

1. The status of the parent application(s) should be updated.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 12, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis, Fritz et al. and Espey et al.

The Lewis reference (Fig. 4) discloses an overflow assembly comprising: an overflow pipe 19 including a flange 48, a sleeve (receiving 43); a hollow fitting 41 having an inner end 43 and a

Art Unit: 3751

threaded outer end 42; and a nut 21. Therefore, Lewis teaches all claimed elements except for the provision of a cap.

Although the hollow fitting of the Lewis overflow assembly does not include a cap, as claimed, attention is directed to the Fritz et al. (Fritz) reference which discloses an analogous overflow assembly which further includes a hollow fitting 30 having a cap 18. Therefore, in consideration of Fritz, it would have been obvious to one of ordinary skill in the overflow assembly art to associate a cap with the Lewis hollow fitting in order to conceal the assembly. Furthermore, Fritz teaches use of lugs 64 to frictionally detachably engage the cap with the hollow fitting (via 14,32). Additionally, the Espey et al. (Espey) reference teaches providing a nut 20 with lugs 21-26 to engage a cap 40. It would have been obvious in light of the combined teachings of Lewis, Fritz and Espey to engage the cap taught Fritz with a nut having lugs as taught by Lewis and Espey in order to provide the benefit of the cap as disclosed by Fritz with an overflow assembly of the type having a nut with lugs. Re claim 15, the cap disclosed by Fritz includes a six o'clock notch 54.

4. Applicant's arguments with respect to claim 12 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3751

5. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

6. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday.



Robert M. Fetsuga
Primary Examiner
Art Unit 3751